



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/592,028	09/07/2006	Jeong-Min Lee	L69.12-0006	9384

27367 7590 08/05/2009
WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

EXAMINER

ALLEN, JEFFREY R

ART UNIT	PAPER NUMBER
----------	--------------

3781

MAIL DATE	DELIVERY MODE
-----------	---------------

08/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/592,028	Applicant(s) LEE ET AL.	
	Examiner JEFFREY ALLEN	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-15 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 3 is objected to because of the following informalities: binding is written instead of bending in line 1. Appropriate correction is required.
2. Claims 7-9 are objected to because of the following informalities: the term “the exhausting portion” (claim 7, line 5) lacks antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-5 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,203,517 to Hildebrandt et al. (Hildebrandt).

In Reference to Claim 1

Hildebrandt teaches a cap assembly that can be associated with a container storing a primary material (Fig. 1), the cap assembly comprising a lid (5) fixed on a top of the container and having an exhausting portion (8) projected upward; a cap main body (13) detachably coupled to the exhausting portion of the lid and having a storage tube (16) extending downward to define a storage chamber for storing a secondary material; and an inner cap body (29) detachably coupled to the storage tube. The exhausting portion tightly contacts an outer

Art Unit: 3781

surface of the storage tube, further including a bending portion (12) for selectively separating the inner cap body (12 pushes against 16 to maintain 29 in the closed position when the storage tube is in the lower position, therefore it is acting along with other parts to selectively separate the inner cap body).

In Reference to Claim 3

Hildebrandt teaches wherein the bending portion is projected inward (Fig. 2).

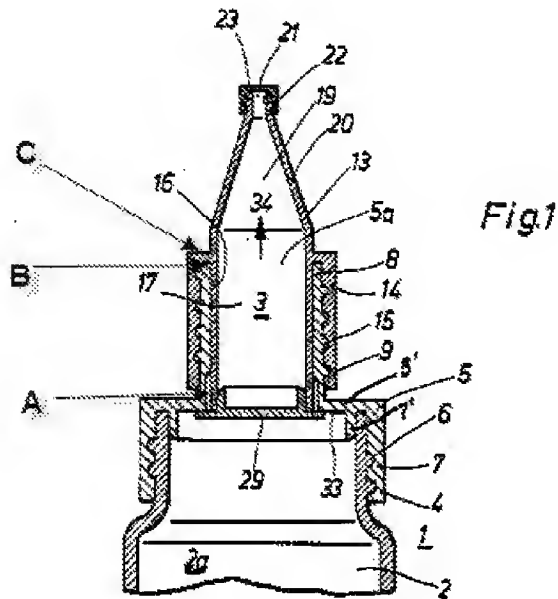
In Reference to Claim 4

Hildebrandt teaches wherein a top surface of the container and a lower surface of the lid are provided with respective attaching surfaces (4 and 6) attached to each other.

In Reference to Claim 5

Hildebrandt teaches a cap assembly that can be associated with a container storing a primary material (Fig. 1), the cap assembly comprising a lid (5) fixed on a top of the container and having a falling space (A, Fig. 1 below labeled by examiner) and an inner cap body (29') extending from the falling space; and a cap main body (13) detachably coupled to the exhausting portion (8) of the lid and having a storage tube (16) extending downward to define a storage chamber for storing a secondary material, a lower end of the storage chamber being closed by the inner cap body; and wherein the inner cap body is coupled to the falling space, wherein the lower end of the chamber is opened when the cap main body is moved away from the lid (Figs. 2 and 3), and wherein

the inner cap body remains coupled to the falling space (Fig. 5, col. 4, lines 36-39).



In Reference to Claim 7

Hildebrandt teaches a cap assembly that can be associated with a container storing a primary material (Fig. 1), the cap assembly comprising a lid (5) fixed on a top of the container and having a falling space (A) and an inner cap body (29') extending from the falling space; a cap main body (13) detachably coupled to the exhausting portion (8) of the lid and having a storage tube (16) extending downward to define a storage chamber for storing a secondary material, a lower end of the storage chamber being closed by the inner cap body; a cap body detachably coupled to the exhausting portion; a storage member function as a straw (20), the storage member being slidably inserted in the cap body to define storage chamber storing a secondary material and being closed

Art Unit: 3781

by the inner cap body wherein a lower end of the chamber is opened when the storage member slides in a direction away from the inner cap body (Figs. 2 and 3) and the inner cap body remains coupled to the falling space (Fig. 5, col. 4, lines 36-39); and an outer cap body detachably coupled to the exhausting portion, the storage member being coupled in the outer cap body.

In Reference to Claim 8

Hildebrandt teaches wherein the cap body is provided at an inner portion with a hooking step (B, Fig. 1 above labeled by examiner) and the storage member is provided with a stopper (C, Fig. 1 above labeled by examiner) that is to be hooked on the hooking step.

In Reference to Claim 9

Hildebrandt teaches wherein the storage member has a top (23) detachably coupled on an inner surface of the outer cap body (the wall of 13 is coupled on an inner surface of the outer cap so the top is indirectly coupled).

5. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,386,696 to Goncalves (Goncalves).

Goncalves teaches a cap assembly that can be associated with a container (1) storing a primary material (Fig. 1), the cap assembly comprising a lid fixed on a top of the container and provided with an exhausting portion (2) and a plurality of exhausting pieces (12) extending from a lower portion of the exhausting portion; a cap body (4) detachably coupled to the exhausting portion

Art Unit: 3781

and having a storage tube (7) extending downward to define a storage chamber for storing a secondary material; and an inner cap (8) detachably coupled to the lower portion of the storage tube wherein the exhausting pieces are coupled to the lid and extend into the container which contact the edge of the inner cap inserted in the lower end of the storage tube.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goncalves.

Goncalves teaches all the claimed limitations as shown above and wherein the exhausting pieces have a bending portion. In the present embodiment Goncalves fails to teach wherein the exhausting pieces are inserted between an upper end of the inner cap body and a lower end of the storage tube.

In an alternate embodiment Goncalves teaches wherein the exhausting pieces are inserted between an upper end of the inner cap body and a lower end of the storage tube (Fig. 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the embodiment of Goncalves with

Art Unit: 3781

the exhausting pieces in the locations taught by the alternate embodiment, since it has been held that rearranging parts of an invention involves only routine skill in the art.

8. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0213709 to Gibler et al. (Gibler) in view of U.S. Patent Application Publication No. 2002/0020636 to Bergamini et al. (Bergamini).

In Reference to Claim 10

Gibler teaches a cap assembly that can be associated with a container storing a primary material, the cap assembly comprising a lid (top portion of a bottle) fixed on a top of the container and provided with an exhausting portion (26) and a cutting plate (50); a cap body (32) detachably coupled to the exhausting portion; a storage member (52) being slidably inserted in the cap body (Fig. 6) and defining a storage chamber sealed by the cutting plate and the exhausting portion; and an outer cap body (14) detachably coupled to the cap body and provided with an inner coupling portion (28) that is screw-coupled to an inner surface of the storage member (the walls of the storage member are inner because they are within the exhausting portion), wherein movement of the outer cap body away from the lid causes cutting of the cutting plate and thereby opens the storage chamber to the container.

Gibler fails to teach that the storage member functions as a straw.

Bergamini teaches that it is known in the art to manufacture a cap assembly wherein the storage member functions as a straw (72).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the storage member of Gibler to function as a straw, as taught by Bergamini, to make it easier to remove the mixed contents of the container.

In Reference to Claim 11

The modified cap of Gibler teaches wherein the storage member is screw-coupled to an upper inner surface to descend when the outer cap ascends.

In Reference to Claim 12

The modified cap of Gibler teaches all the claimed limitations as shown above but fails to teach wherein the storage member has a pointed extreme end.

Bergamini teaches that it is known in the art to manufacture a cap assembly wherein the storage member has a pointed extreme end (Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the storage member of Gibler to have a pointed extreme edge, as taught by Bergamini, in order to improve its ability to break the seal.

In Reference to Claim 13

The modified cap of Gibler teaches wherein the storage member is coupled to a key groove (Gibler, 28) formed on an inner surface of the exhausting portion of the lid.

Art Unit: 3781

In Reference to Claim 14

The modified cap of Gibler teaches wherein the cutting plate has a cutting line (Bergamini, formation around the bottom of the plate) at its edge portion.

9. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibler in view of Bergamini (alternate application of the prior art).

In Reference to Claim 10

Gibler teaches a cap assembly that can be associated with a container storing a primary material, the cap assembly comprising a lid (top portion of a bottle) fixed on a top of the container and provided with an exhausting portion (neck of the bottle the cap is connected to) and a cutting plate (32); a cap body (26) detachably coupled to the exhausting portion; a storage member (52) being slidably inserted in the cap body (Fig. 6) and defining a storage chamber sealed by the cutting plate and the exhausting portion; and an outer cap body (14) detachably coupled to the cap body and provided with an inner coupling portion (28) that is screw-coupled to an inner surface of the storage member (the walls of the storage member are inner because they are within the exhausting portion), wherein movement of the outer cap body away from the lid causes cutting of the cutting plate and thereby opens the storage chamber to the container.

Gibler fails to teach that the storage member functions as a straw and the outer cap body being detachably coupled to the cap body.

Art Unit: 3781

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the storage member of Gibler to function as a straw, as taught by Bergamini, to make it easier to remove the mixed contents of the container. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the outer cap body to be detachable from the cap body, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art.

In Reference to Claim 11

The modified cap of Gibler teaches wherein the storage member is screw-coupled to an upper inner surface to descend when the outer cap ascends.

In Reference to Claim 12

The modified cap of Gibler teaches all the claimed limitations as shown above but fails to teach wherein the storage member has a pointed extreme end.

Bergamini teaches that it is known in the art to manufacture a cap assembly wherein the storage member has a pointed extreme end (Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the storage member of Gibler to have a pointed extreme edge, as taught by Bergamini, in order to improve its ability to break the seal.

In Reference to Claim 13

The modified cap of Gibler teaches wherein the storage member is coupled to a key groove (Gibler, 28) formed on an inner surface of the exhausting portion of the lid.

In Reference to Claim 14

The modified cap of Gibler teaches wherein the cutting plate has a cutting line at its edge portion (Gibler, par. 22).

Response to Arguments

10. Applicant's arguments filed 5/8/2009 have been fully considered but they are not persuasive. Applicant argues that the combination of Hildebrandt and Goncalves would provide a configuration in which additional portions are added to the cap. While this may be true the claims use the word comprising which means the combination may include elements other than those recited. Since the prior art used contains all the claimed limitations does not matter that it has additional features.

11. Applicant's arguments with respect to the remaining claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3781

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY ALLEN whose telephone number is (571)270-7426. The examiner can normally be reached on Monday through Friday 8:00 AM TO 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3781

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A./

Examiner, Art Unit 3781

/Anthony D Stashick/
Supervisory Patent Examiner, Art Unit 3781